



Stratham Planning Board
Meeting Minutes
January 03, 2018
Municipal Center, Selectmen's Meeting Room
10 Bunker Hill Avenue
Time: 7:00 PM

Members Present: Bob Baskerville, Chairman
Jameson Paine, Vice Chairman
Tom House, Secretary
David Canada, Member
Mike Houghton, Selectmen's Representative
Nancy Ober, Alternate

Members Absent: Robert Roseen, Alternate

Staff Present: Tavis Austin, Town Planner

1. Call to Order/Roll Call

The Chairman took roll.

2. Review/Approval of Meeting Minutes

a. December 6, 2017

Mr. Paine made a motion to approve the meeting minutes of December 6, 2017 as submitted.
Mr. House seconded the motion. Motion carried unanimously.

b. December 20, 2017

Mr. Paine made a motion to approve the meeting minutes of December 20, 2017 as submitted.
Mr. House seconded the motion. Motion carried unanimously.

3. Public Hearing

- a. 6-Lot Subdivision Application** to create five (5) new building lots at 8 Whittaker Drive, Stratham NH 03885, Map 19 Lot 68 submitted by Jonathan S. Ring, PE, Jones & Beach Engineers, Inc., PO Box 219, Stratham, NH 03885.

Mr. Austin explained the Planning Board packet includes the staff review based on the most recent submittal, which is the extension of Whittaker Drive; memorandums from the Conservation Commission and Pedestrian Cycle Advisory Committee; an email from Paul Connolly of Civilworks; and an estimate for Rockingham County Conservation District who will provide a third party analysis of the wetland areas and soils along the Graves/Sullivan boundary line. Staff recommendation is the submittal is incomplete for final action from the planning board tonight and should be continued to a date certain with the permission of the applicant. If the applicant is not willing to agree to an extension of the various timeclocks in play, staff review has recommended findings for denial of the application.

Mr. Baskerville stated that without the finished wetland delineation the board cannot vote on the application other than to continue or deny based on the applicant and suggestion. Mr. Baskerville opened the hearing for new information only to be presented.

Jonathan Ring, Jones and Beach Engineers, stated there is a memorandum from Gove Environmental Services, included in the planning board packets, dated January 2, 2018 which speaks to the wetland issue. Mr. Ring discussed the plan from 1995 prepared by Durgin, Vera & Associates and the recent plan which Gove Environmental Services verified in August 15, 2017 that the wetlands shown on the Jones and Beach plans are correct. Mr. Ring does not agree that it is fair to wait until spring to verify the wetlands on the site. Mr. Austin stated the wetland delineation was requested due to the abutter's raising the question several times about the delineation and it is the board's decision if they would like to proceed with a third party to determine the question on the soils. Mr. Austin explained that Civilworks did not want to complete their review if there was a soils question. It is up to the planning board to proceed with the information from Gove or request third party review to determine if there is or is not a question on the soils. Mr. Canada asked for confirmation from Mr. Ring that the presentation is based exclusively on Jones and Beach wetland delineation. Mr. Ring stated there is a dispute that the lot closest to the Grave property is mostly wetland and is a non-viable lot. Mr. Baskerville explained the planning board was unaware of the Conservation Commission meeting regarding this subdivision and it was the Conservation Commission who requested the third party review, and Jones and Beach agreed to a review by Rockingham County. Mr. Canada stated Jim Gove's letter supports what is on the table and doesn't agree that Mr. Sullivan should be held up any longer. Mr. Paine stated based on the information presented in the packet's tonight he would like wait for the County Conservation District to provide their feedback. Mr. House stated the abutter's have raised concerns about the wetlands and he agreed a third party will be able to clear up any questions that have been raised. Mr. Houghton stated it is in everyone's best interest to have a third party review to eliminate all questions and inconsistencies. Mr. Ring stated the plans have been 100% finished regarding drainage, lot layout, monuments to be set, etc. for the cul de sac layout extension on Whittaker with a 5 ft. pedestrian public way across Lot #2 heading from the cul de sac extension of Whittaker over toward the right of way out to Hillcrest. The detention basin has been taken out of the center of the cul de sac and has been moved behind Lot #3 and Lot #4 as suggested. Mr. Ring stated, given the unknown nature, the applicant would like to wait for RCCD's comments, Civilworks to do their review of the plans, and be willing to pay to re-notice the abutters so the date of February 20 or March 10, 2018, whatever that day is so as to not speculate a date in the future. Mr. Baskerville asked Mr. Ring if they would like to continue to a date uncertain. Mr. Ring stated yes due

to the weather to get RCCD's comments back. Mr. Baskerville recommended the board a continuation to a date certain and if 10 days prior to the hearing RCCD cannot get the review done, a notice on the website be posted that the hearing will only be to continue the hearing to another date certain and re-notify abutter's of the new date. Kevin Baum, Sullivan's attorney, stated legally he is unsure that everyone would need to be re-notified, as long as it is on the website and a public announcement is made and a duly noticed hearing to another date certain that would be sufficient. Mr. Ring asked for confirmation regarding the 65 day clock. Mr. Austin stated a letter from the applicant stating they are willing to extend to the next duly noticed meeting would be sufficient.

Mr. Austin recommended the board proceed with the third party wetland/soil evaluation through Rockingham County Conservation District and upon receipt of the evaluation proceed with third party review through Civilworks. All information is due to the planning board 10 days prior to date specific, tentatively February 21, 2018, with the understanding that applicant and staff will be in communication with regard to moving that date. Staff will contact Candy Graves to assure she is aware of any changes and can contact the email list she notifies. Mr. House asked for confirmation of who will watch to make sure the evaluation is getting done by RCCD. Mr. Austin stated he will stay on top of the weather to contact Mr. Lord and remind him of the evaluation.

Mr. Paine stated due to remaining unanswered questions as to the validity of the submitted soils mapping, which cannot be resolved until the Spring of 2018, Mr. Paine made a motion to continue the public hearing until February 21, 2018 with the understanding that staff will proceed with third party wetlands reviews and, upon receiving the evaluation, the board will proceed to a third party review by Civilworks and ensure that all materials are received 10 days prior to the scheduled public hearing to complete the review. If the meeting is to be continued beyond February 21, 2018, a new notification to abutters, at the applicant's expense, will occur. The applicant to also send written authorization to extend the 65 days clock accordingly. Mr. House seconded the motion. Motion carried unanimously.

Mr. Baskerville advised the board to allow the Preliminary Consultation to be heard before opening the Public Hearing for the 2018 Zoning Amendments.

4. Public Meeting

- a. **3-Lot Subdivision Preliminary Consultation Application** to create two (2) new building lots at 7 Smith Farm Road, Stratham, NH 03885, Map 10 Lot 88, submitted by Bruce Scamman, Emanuel Engineering Inc., 118 Portsmouth Avenue, Stratham, NH on behalf of property owners Cheryl Ewart Living Trust, 7 Smith Farm Road, Stratham, NH 03885.

Bruce Scamman, Emanuel Engineering, representing Cheryl and Andy Ewart, explained he is coming before the board for a preliminary consultation to discuss the possible subdivision of 7 Smith Farm Road. This parcel is a 13 acre lot which multiple frontages along Smith Farm Road, and has approximately 500+/- ft. of frontage on Smith Farm Road. Mr. Scamman reviewed the plan with the board. Mr. Scamman stated the proposed plan is to create two additional lots, which the lot size has not been confirmed yet. Six test pits were done and all have passed. The property was re-subdivided and individual wells were added on the

individual lots and this property was never a part of the community water system. The applicant would like to have a single, shared, driveway to those lots. Mr. Scamman explained there is 650+/- ft. of frontage, the existing lot only has 150 ft. due to the regulations at the time it was approved. Mr. Scamman stated this would be a porkchop lot and allowed the by regulations. Mr. Baskerville asked if this property is one big lot. Mr. Scamman stated yes, 13 acres. Mr. Paine asked if the lot is within a Home Owner's Association. Mr. Scamman stated no, this property was kept out of the HOA originally and they are not looking to create an HOA. Mr. Baskerville asked if there are rights to the disbanded subdivision well on the property. Mr. Scamman explained a boundary research has not been completed, but it is his understanding that those rights were extinguished and it was deeded back to the property owner when the wells became individually owned. Mr. Paine asked if the well is still on the site or has it been removed. Mr. Scamman stated it was closed and filled. Mr. Paine asked if there is a documented easement. Mr. Scamman stated the easement has been dissolved. Mr. Scamman explained that information will be detailed once the final submission is ready to go before the board. Mr. House asked Mr. Scamman about the drainage easement. Mr. Scamman stated there are pipes which come out from under the road and there is a large wetlands crossing, which is the reason from sharing the existing driveway. Mr. Austin stated that staff's opinion is proceeding with a porkchop makes the most sense and is consistent with development along Smith Farm Road. Mr. Baskerville stated there is no reason to put another 50 ft. strip in and have a thin strip up the side of the lot. Mr. Baskerville asked if zoning relief would be required. Mr. Scamman stated he does not believe the applicant will, but a wetland's permit will be required. Mr. Baskerville asked if there is a generous amount of upland where the test pits occurred, or are the houses going to be squeezed in tight. Mr. Scamman stated they will be fairly tight, but there will be plenty of room to make the minimum requirements. Mr. Baskerville stated he is in agreement with the porkchop configuration, both lots have plenty of frontage and the building is occurring towards the back of the property, and does not have an issue with a shared driveway as long as there is an agreement in place requiring shared maintenance, etc. Mr. Baskerville's only concern is the extent of the wetlands.

Ann Vigars, 22 Smith Farm Road, asked for confirmation on the plan where the houses will be. Mr. Scamman showed Ms. Vigars where the houses will be placed, in the back part of the field, depending on the wetlands delineations.

5. Public Hearing

Mr. Baskerville opened the Public Hearing back up to discussing the 2018 Zoning Amendments.

b. 2018 Zoning Amendments

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1. **Proposed Town Warrant Article – Technical Review Committee.** To see if the Town will amend the Zoning Ordinance, Section III, Subsection 3.9 Town Center District, by amending Subsection 3.9.6 *Review and Permitting Process* to further clarify the permitting requirements and procedures for developments within the Town Center Zoning District.

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Planning Board discussed article as presented. Mr. Baskerville asked for public comments; no public comments came forward, therefore, Mr. Paine made a motion to recommend **Proposed Town Warrant Article – Technical Review Committee** as submitted to the Town of Stratham 2018 vote with Planning Board’s approval. Mr. House seconded the motion. Motion carried unanimously.

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2. **Proposed Town Warrant Article – Dimensional Requirements.** To see if the Town will amend the Zoning Ordinance, Section IV, by amending to Section IV, Subsection 4.2 *Table of Dimensional* Requirements to clarify the purpose of the Zoning Ordinance.

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Planning Board discussed article as presented. Mr. Baskerville asked for public comments; no public comments came forward, therefore, Mr. Paine made a motion to recommend **Proposed Town Warrant Article – Dimensional Requirements** as submitted to the Town of Stratham 2018 vote with Planning Board’s approval. Mr. House seconded the motion. Motion carried unanimously.

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3. **Proposed Town Warrant Article – Accessory Dwelling Units.** To see if the Town will amend the Zoning Ordinance, Section V, Section 5.4 Accessory Dwelling Units, Subsection 5.4.3 *Regulations* to add 5.4.3.i to reflect the statutory changes to NH RSA 674:70.

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Planning Board discussed article as presented. Mr. Baskerville asked for public comments; no public comments came forward, therefore, Mr. House made a motion to recommend **Proposed Town Warrant Article – Accessory Dwelling Units** as submitted to the Town of Stratham 2018 vote with Planning Board’s approval. Mr. Houghton seconded the motion. Motion carried unanimously.

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4. **Proposed Town Warrant Article –Signs.**
To see if the Town will amend Section VII, Subsection 7.4 *Permit Procedures*, Subsection 7.4.a.iv.9 and Subsection 7.4.b.v to establish clarify the permitting process for signs.

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Planning Board discussed article as presented. Mr. Baskerville asked for public comments; no public comments came forward, therefore, Mr. Houghton made a motion to recommend **Proposed Town Warrant Article – Signs** as submitted to the Town of Stratham 2018 vote with Planning Board’s approval. Mr. House seconded the motion. Motion carried unanimously.

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227 **5. Proposed Town Warrant Article –Exempt Signs.**

228 To see if the Town will amend Section VII *Signs*, Subsection 7.5 *Exempt Signs*, by amending
229 Subsection 7.5.i *Directional Signs* and Subsection 7.5.s to add *Not-For-Profit/Non-Taxable*
230 *Entity* signs, and renumber accordingly to amend the list of Exempt Signs.

231 Planning Board discussed article as presented. Mr. Baskerville asked for public comments; no
232 public comments came forward, therefore, Mr. House made a motion to recommend
233 **Proposed Town Warrant Article – Exempt Signs** as submitted to the Town of Stratham
234 2018 vote with Planning Board’s approval. Mr. Paine seconded the motion. Motion carried
235 unanimously.
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238 **6. Proposed Town Warrant Article – Residential Open Space Cluster Development.**

239 To see if the Town will amend Section VIII, Subsections 8.11.b.ii, and v, to modify the
240 Planning Board’s ability to grant density bonuses within Residential Open Space Cluster
241 Developments.

242 Planning Board discussed article as presented. Mr. Baskerville asked for public comments; no
243 public comments came forward, therefore, Mr. Paine made a motion to recommend **Proposed**
244 **Town Warrant Article – Residential Open Space Cluster Development** as submitted to the
245 Town of Stratham 2018 vote with Planning Board’s approval. Mr. Houghton seconded the
246 motion. Motion carried unanimously.
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249 **7. Proposed Town Warrant Article – Shoreland Protection.**

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251 To see if the Town will amend Section XII, Subsection 12.6.4 *Special Exception for Lots of*
252 *Record*, to further clarify the permitting requirements and procedures within the Shoreland
253 Protection District.

254 Planning Board discussed article as presented. Mr. Baskerville asked for public comments; no
255 public comments came forward, therefore, Mr. Paine made a motion to recommend **Proposed**
256 **Town Warrant Article – Shoreland Protection** as submitted to the Town of Stratham 2018
257 vote with Planning Board’s approval. Mr. House seconded the motion. Motion carried
258 unanimously.
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261 **8. Proposed Town Warrant Article – Demolition Review.**

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263 To see if the Town will amend Section XVI, Subsections 16.5.3 (b) and (c) *Procedure*, to
264 provide a maximum of 60 calendar days for Historic Demolition Review.

265 Planning Board discussed article as presented. Mr. Baskerville asked for public comments.
266 Mr. Deschaine noted it has been expressed to him by the public that a 60 day review serves no

purpose and he is unsure why members of the public did not attend to express their consternation of going to 60 days. It was confirmed that 60 days is a maximum allowed for review, if necessary. Mr. Canada made a motion to recommend **Proposed Town Warrant Article – Demolition Review** as submitted to the Town of Stratham 2018 vote with Planning Board’s approval. Mr. Paine seconded the motion. Motion carried unanimously.

9. Proposed Town Warrant Article Telecommunications.

To see if the Town will amend Section XIX, Subsection 19.2 *Purpose and Goal*, Subsection 19.3 *Definitions*, Subsection 19.4 *Siting Standards*, Subsection 19.6 *Construction Performance Requirements*, Subsection 19.7 *Conditional Use Permits*, Subsection 19.8 *Waivers*, and Subsection 19.10 *Removal of Abandoned Antennas and Towers*, to further clarify the permitting requirements and procedures for Telecommunications Facilities.

Planning Board discussed article as presented. Mr. Baskerville asked for public comments. Ms. Yalcinkaya commented on the email to Mr. Houghton and planning department (see attached).

Mr. Canada stated 100 ft. is not the way to go and questioned 19.4.3.b is provision for exceeding 100 ft. with a tree or something similar, will the planning board have the ability to waive the entire height requirement if that is what is best on a specific case. Mr. Canada proposes the height should be 150 ft. Mr. Baskerville stated the planning board needs an out that states if an applicant proposes an aesthetically acceptable facility, the board can waive the 100 ft. Mr. Houghton stated Paragraph A. states the height can be waived through a Conditional Use Permit process only if the intent of the Ordinance is preserved in impacts, but provides a greater opportunity for co-location. Mr. Houghton stated the Telecommunication Act enables an applicant to, through co-location, add 20% to the maximum height. Mr. Austin clarified the because of the table is in a “word document” it only shows 100’ but on the warrant it will show 100’ with 450². Mr. Baskerville asked for public comment.

Ceyda Yalcinkaya, 3 Bittersweet Lane, stated she has filed a petition and checked many other town ordinances and they all have limits which are less than 100 ft. Some ordinances also have a distance requirement from residential and school zones. Ms. Yalcinkaya stated decreasing to 100 ft. is not enough and it needs to be shorter, especially in residential zones. Mr. Baskerville stated the setback to a property line is much greater than it was. Ms. Yalcinkaya stated she would like the board to get the ordinance right. Mr. Baskerville stated that making the ordinance so restrictive gives the applicant more power in court by saying the regulations too restrictive to allow a tower. Mr. Houghton stated the board has tried to, based on the input from a third party analyst engaged in the telecommunication industry, enhance the Town of Stratham ordinance above and beyond where they are today. Ms. Yalcinkaya stated some ordinances stated “restrict tower height in residential zones to 20 ft., or whatever the base zoning allows”. Mr. Baskerville stated the majority of the Town of Stratham’s zone is residential/agriculture. Mr. Austin clarified many of the examples in Ms. Yalcinkaya’s letter are from communities which have residential versus industrial versus rural, etc. Mr. Austin explained that 19.4.1.b states before an applicant can consider a new tower, they would have to prove their need cannot be satisfied, as they are demonstrating, by co-locating and the

co-location is less than 20 ft. above the base. Ms. Yalcinkaya recommends burden of proof which legally states the co-location does not work. Mr. Baskerville stated when information is submitted regarding burden of proof, the planning board sends the information to a third party expert to check the data. Mr. Austin read the proposed 19.4.1.b which states the applicant must prove by substantial evidence that a bonafide need exists. Ms. Yalcinkaya asked that the ordinance request approval from a licensed professional civil engineer or someone certified. Mr. Baskerville stated the proposed ordinance is covered by the changes being made. Mr. Austin stated the 100 ft. height came out of the model ordinance that was put together by a group that is attempting to limit the proliferation of towers. Mr. Baskerville stated dropping the height from 150 ft. to 100 ft. is the right decision and lowering the height to 55 ft. would open up the town to lawsuits. Mr. Houghton agreed with towers/facilities must be located a minimum of 1,500 ft. or one-quarter (1/4) mile away from a school zone. Mr. Austin asked for clarification of a school zone. The Town of Stratham does not have a "school zone". Mr. Deschaine stated it has to do with electromagnetic frequency and the Telecommunication Act expressly prohibits from using that rational.

The board discussed the lack collaboration between different utilities. Mr. Austin stated 19.4.1.b states "no reasonable accommodation of the location, techniques, or technologies will satisfy the need..." and maybe the cost of co-location exceed the cost a new telecommunication facility by at least, for example, 400 percent. Mr. Austin suggested deleting the cost section. Mr. Austin asked the board for opinions if it would be acceptable to have antennas on the roof of every structure in Stratham in lieu of a tower. Mr. Paine stated yes, as long as it's aesthetically pleasing. Ms. Yalcinkaya asked for clarification of the definition of "existing structure" in the ordinance and whether that means each residential house is an existing structure or is it just existing telecommunication facilities. Mr. Austin stated it reads to mean any house, chimney, silo, barn, etc.

Ms. Yalcinkaya asked the board to reduce the height of the tower in the residential zone. Mr. Canada stated he is not in favor of reducing it any more than 100 ft. Mr. Paine stated he is in favor of lowering the height with the understanding the applicant can have it waived. Mr. Houghton asked to have the height changed to 80 ft. and ask the attorney for legal opinion.

Mr. Houghton made a motion to recommend removal of the last sentence of the noticed 19.4.1.b as presented this evening and as part of the legal review ask for any major ramifications if this sentence is removed in its entirety to read:

- a. In all applications for construction of a new telecommunication facility, the applicant must prove by substantial evidence, including but not limited to a town-wide site evaluation plan for coverage that details possible antennae or co-location options which contemplate a 5-year development horizon, that a bona fide need exists for the facility and that no reasonable combination of locations, techniques, or technologies will satisfy the need. ~~The applicant must further prove that it has made all reasonable efforts to procure antenna space on existing telecommunication facilities and that the cost of co-location exceeds the cost of a new telecommunication facility by at least fifty percent,~~ and;

Mr. Paine seconded the motion. Motion carried unanimously.

Mr. Paine made a motion to recommend the height requirement in New Tower Construction for Residential Zones to 80 ft. in Section 19.4.3.a as discussed this evening to read:

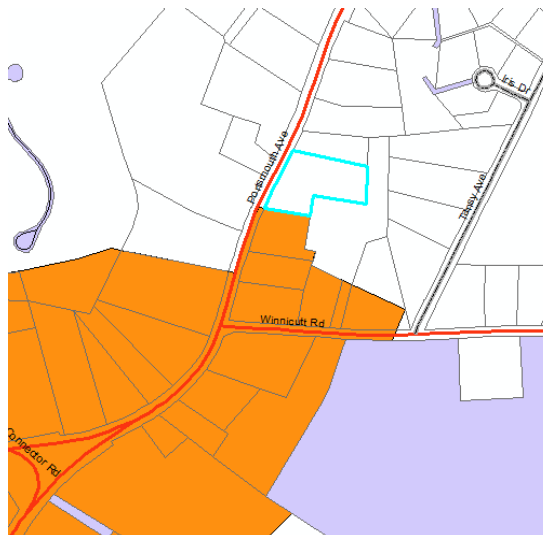
	New Tower Construction	Co-location on Existing Tower
Industrial Zone:	150' 100'	Current Height
Commercial Zone: (GCBD, CLIO, PRE & TC)	150' 100'	Current Height
Residential Zones: (R/A, MH, RPC, FMU):	150' 100' 80'	Current Height

Mr. House seconded the motion. Motion carried with 4-Yes, 1-No votes.

Mr. Paine made a motion to continue the Public Hearing on these Warrant Articles to January 17, 2018 pending legal review and if legal review cannot be provided in time for January 17, 2018, staff be directed in a timely fashion to provide notice for a special meeting on or before February 5, 2018. Mr. House seconded the motion. Motion carried unanimously.

10. Proposed Town Warrant Article – Town Center Citizen Petition.

To see if the Town will amend the Zoning Map, to include 170 Portsmouth Avenue (Tax Map 17 Lot 86) in the Town Center Zoning District.



381 Planning Board discussed article as presented. Mr. Baskerville asked for public comments; no
382 public comments came forward, therefore, Mr. Canada made a motion to not accept the
383 **Proposed Town Warrant Article – Town Center Citizen Petition** application. Mr.
384 Houghton seconded the motion. Motion carried unanimously.
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386 **6. Miscellaneous.**
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388 Mr. Austin asked the board for a determination of the meeting scheduled July 4, 2018, which is
389 found on the back side of the binder. Staff recommendation is to cancel that meeting and if a
390 project comes along the board can entertain a special meeting to accommodate that cancellation.
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392 Mr. Paine made a motion to cancel the July 4, 2018 regular scheduled meeting. Mr. House
393 seconded the motion. Motion carried unanimously.
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395 Mr. Austin stated the RFP for the Town Master Plan has been sent out and letters of interest are
396 required by January 16, 2017 with final submittals due by February 2, 2018.
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398 **7. Adjournment.**
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400 Mr. House made a motion to adjourn the meeting at 9:59 pm. Mr. Paine seconded the
401 motion. Motion carried unanimously.